

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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| <b>FUSION ELITE ALL STARS, et al.,</b><br><br>Plaintiffs,<br><br>v.<br><br><b>VARSITY BRANDS, LLC, et al.,</b><br><br>Defendants.                         | Case No. 2:20-cv-02600-SHL-tmp<br><br><b>JURY TRIAL DEMANDED</b> |
| <b>AMERICAN SPIRIT AND CHEER<br/>ESSENTIALS, INC., et al.,</b><br><br>Plaintiffs,<br><br>v.<br><br><b>VARSITY BRANDS, LLC, et al.,</b><br><br>Defendants. | Case No. 2:20-cv-2782-SHL-tmp<br><br><b>JURY TRIAL DEMANDED</b>  |
| <b>JONES, et al.,</b><br><br>Plaintiffs,<br><br>v.<br><br><b>BAIN CAPITAL PRIVATE EQUITY, et al.,</b><br><br>Defendants.                                  | Case No. 2:20-cv-02892-SHL-tmp<br><br><b>JURY TRIAL DEMANDED</b> |

**PLAINTIFFS' JOINT MOTION TO MODIFY SCHEDULING ORDERS**

COME NOW Plaintiffs Fusion Elite All Stars, Spirit Factor LLC d/b/a Fuel Athletics, Stars and Stripes Gymnastics Academy Inc. d/b/a Stars and Stripes Kids Activity Center, Kathryn Anne Radek, Lauren Hayes, and Janine Cherasaro (collectively, “*Fusion Elite* Plaintiffs”); Plaintiffs Jessica Jones, Michelle Velotta, and Christina Lorenzen (collectively, “*Jones*

Plaintiffs”); and Plaintiffs American Spirit and Cheer Essentials, Inc., Rockstar Championships, LLC, Jeff & Craig Cheer, LLC, d/b/a Jeff and Craig Camps, and Ashley Haygood (collectively, *American Spirit* Plaintiffs”), individually and on behalf of all others similarly situated, and move this Court, for an order extending various deadlines set forth in the Scheduling Orders entered in the above-captioned matters (the “Related Actions”) by four months. In support of this motion, the *Fusion Elite* Plaintiffs, *Jones* Plaintiffs, and *American Spirit* Plaintiffs (collectively, “Plaintiffs”) state as follows:

1. The Scheduling Orders previously entered by this court allowed for a discovery period ranging from 16 months in *Fusion Elite* to 10 months in *Jones*. (No. 20-cv-2600, Dkt. 61; No. 20-cv-2782, Dkt. 100; No. 20-cv-02892, Dkt. 61.) Motions to join parties or amend pleadings must be filed by November 19, 2021. (No. 20-cv-2600, Dkt. 61 at 2; No. 20-cv-2782, Dkt. 100 at 2; No. 20-cv-02892, Dkt. 61 at 2.) The deadline to serve interrogatories and requests for admission is January 14, 2022. (No. 20-cv-2600, Dkt. 61 at 2; No. 20-cv-2782, Dkt. 100 at 2; No. 20-cv-02892, Dkt. 61 at 2.) Fact discovery and depositions currently must be completed in all Related Actions by February 18, 2022. (No. 20-cv-2600, Dkt. 61 at 3; No. 20-cv-2782, Dkt. 100 at 3; No. 20-cv-02892, Dkt. 61 at 2.)

2. The Scheduling Orders expressly state:

The deadlines for completing depositions and closing fact discovery *are contingent on the Parties’ substantially completing production of data and documents* sufficiently in advance of the February 18, 2022 deadline for completing depositions and closing fact discovery so that the Parties have sufficient time to prepare for and utilize the documents at depositions.

(No. 20-cv-2600, Dkt. 61 at 3 n.2; No. 20-cv-2782, Dkt. 100 at 3 n.2; No. 20-cv-02892, Dkt. 61 at 2 n.2) (emphasis added).

3. Plaintiffs have, as described more fully in the attached memorandum and declarations, made significant and diligent efforts to complete discovery in a timely manner.

They began seeking discovery within days of the Court entering the Scheduling Orders at issue, have collectively served over 50 subpoenas on non-parties, and have collected over 100,000 documents thus far. Plaintiffs have also noticed 12 depositions of various current and former Varsity employees.

4. *Fusion Elite* Plaintiffs filed two motions to compel with this Court, seeking more fulsome responses to requests for production from Defendants Varsity and USASF. *Fusion Elite* Plaintiffs also initiated subpoena enforcement action in the Northern District of Texas against non-party Rebel Athletic Inc., which remains pending. *Jones* Plaintiffs filed four motions to compel with this Court seeking discovery from Defendants Varsity, Jeff Webb, Bain, and Charlesbank, three of which also remain pending. Finally, Plaintiffs were forced to seek this Court's intervention in a motion to facilitate coordination of depositions in all three Related Actions when Defendants jointly refused to permit depositions noticed in multiple actions to go beyond seven hours.

5. Significant document productions from Defendants and non-parties remain outstanding. Depositions cannot be effectively taken and expert reports cannot be prepared until those productions are complete. Further, more than three-quarters of the 55+ depositions Plaintiffs are entitled to take remain outstanding. It is clear now that this discovery is, despite Plaintiffs' best efforts, unlikely to be completed before the February 18, 2022 deadline for depositions and fact discovery. Good cause therefore exists to extend the deadlines previously established by this Court as follows:

| Deadline   | Current Deadline  | Proposed Extension of Deadline |
|--|-------------------|--------------------------------|
| Last Day for Motions to Join Parties;<br>Deadline for Motions to Amend Pleadings | November 19, 2021 | March 18, 2022                 |

| <b>Deadline</b>  | <b>Current Deadline</b> | <b>Proposed Extension of Deadline</b> |
|--|-------------------------|---------------------------------------|
| Deadline for Serving Interrogatories and Requests for Admission                            | January 14, 2022        | May 18, 2022                          |
| Deadline for Completion of Depositions   | February 18, 2022       | June 18, 2022                         |
| Close of Fact Discovery  | February 18, 2022       | June 18, 2022                         |
| Deadline to Serve Expert Reports on All Issues for Which a Party Bears the Burden of Proof | March 18, 2022          | July 18, 2022                         |
| Deadline to Serve Opposing Expert Reports  | May 13, 2022            | September 13, 2022                    |
| Deadline to Serve Expert Rebuttal Reports  | July 11, 2022           | November 13, 2022                     |
| Deadline for Expert Witness Depositions  | August 12, 2022         | December 12, 2022                     |
| Motions for Class Certification and to Exclude Experts Under F.R.E. 702/Daubert Motions    | September 16, 2022      | January 16, 2023                      |
| Oppositions to Class Certification and to Exclude Experts Under F.R.E. 702/Daubert Motions | November 11, 2022       | March 11, 2023                        |
| Replies in Support of Motions to Exclude Experts Under F.R.E. 702/Daubert Motions          | December 9, 2022        | April 11, 2023                        |

For the above reasons and those set forth in the accompanying Memorandum of Law in Support, Plaintiffs respectfully request that this Court grant the instant Motion and enter the attached proposed order extending existing deadlines in the Related Actions by four months.

Dated: November 18, 2021

Respectfully submitted,

By: /s/ Katherine Van Dyck

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**CERTIFICATE OF GOOD FAITH**

Consistent with Local Rule 26(b)(1) and 7.2(a)(1).01(b)(3), counsel for Plaintiffs have attempted to resolve the issues raised in this Motion in good faith with Defendants. Plaintiffs provided Defendants with their requested modifications to the Scheduling Orders on November 17, 2021 and advised counsel for Defendants of their intent to file the instant motion. Defendants in all of the Related Actions informed Plaintiffs on November 18, 2021 that they oppose the relief sought herein.

/s/ Katherine Van Dyck

Katherine Van Dyck

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 18, 2021, the foregoing was served  
via ECF processing upon the following:

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